



CITY COUNCIL  
ATLANTA, GEORGIA

A RESOLUTION

01-*R* -1200

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE  
AMOUNT OF \$10,393.57 IN SETTLEMENT OF THE CLAIM  
OF TRAVELERS AS SUBROGEE OF RICHARD P. CLARK  
AGAINST THE CITY OF ATLANTA**

**WHEREAS**, Travelers as subrogee of Richard P. Clark has filed a claim against the City of Atlanta seeking damages arising out several occurrences of sewer back ups to the claimant's property located at 3077 West Andrews Drive, NW; and

**WHEREAS**, the property owned by Richard P. Clark has been damaged due to several occurrences of sewer back ups between March 6, 2000 and March 21, 2000; and

**WHEREAS**, the City of Atlanta was on notice of said nuisance and yet the City failed to abate said nuisance; and

**WHEREAS**, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

**WHEREAS**, the claimant has asserted damages in excess of **\$10,393.57** and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

**WHEREAS**, the City Attorney has recommended that the claim of Travelers as subrogee of Richard P. Clark be settled for the sum of **\$10,393.57**

**THEREFORE, BE IT RESOLVED** that the Council of the City of Atlanta, Georgia that **\$10,393.57** be paid by the City of Atlanta in satisfaction of any and all claims Travelers as subrogee of Richard P. Clark owner of property located at 3077 West Andrews Drive, NW may have stemming from damages sustained to his properties between March 6, 2000 and March 21, 2000.

**BE IT FURTHER RESOLVED** that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

A true copy,

*Rhonda Dauphin Johnson*  
Municipal Clerk, CMC

ADOPTED by the Council  
RETURNED WITHOUT SIGNATURE OF THE MAYOR  
APPROVED as per City Charter Section 2-403

AUG 06, 2001

AUG 15, 2001

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0145

Date: July 19, 2001

Claimant /Victim THE TRAVELERS AS SUBROGEE OF RICHARD P. CLARK

BY: (Atty)(Ins. Co.) \_\_\_\_\_

Address: P. O. Box 2954, Milwaukee, WI 53201-2954

Subrogation: X Claim for Property damage \$ 10,393.57 Bodily Injury \$ \_\_\_\_\_

Date of Notice: 09/21/00 Method: Written, proper X Improper \_\_\_\_\_

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 03/06 - 03/21/00 Place: 3077 West Andrews Drive, NW

Department Public Works Division: Sewer Operations

Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: The claimant's property was damage due to a series of five sewer back ups. The City was on notice of a problem with the sewer after the first occurrence and failed to correct the problem with the sewer line in a timely manner.

INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_

Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other \_\_\_\_\_

Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_

Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable X

City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_

Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_

Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 10,393.57 Adverse \_\_\_\_\_ Account charged: 1A01 \_\_\_\_\_ 2J01 X 2H01 \_\_\_\_\_

Claims Manager:  Concur/date 07-19-01

Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

**TravelersInsurance**  
A member of citigroup



Paul Kasdorf  
PO BOX 2954  
MILWAUKEE, WI 53201-2954  
Phone: (800)624-6007 x1868  
Fax: (262)827-1038

*MITCHELL*  
*03/01/01*

February 15, 2001

City Of Atlanta  
Municipal Clerk  
55 Trinity Ave SW  
Atlanta, GA 30335

**FEB 26 2001**

**ENTERED - 3-2-01 - SB**  
**01L0145 - DIANNE MITCHELL**

Our Client: Richard P Clark  
Date of Loss: 03/21/2000-7/27/00  
Our File No.: LWL3214

Dear City Of Atlanta;

We are handling a claim for Richard P Clark who sustained several losses on 03/21/2000-7/27/00.

Our investigation reveals that you may be legally responsible for this loss, and we look to you to satisfy this obligation. It is our understanding that the sewer line maintained by the city fails to provide proper drainage, causing the raw sewage to backup into our Client's basement.

We have paid \$10393.57 for the contents paid to our client for the damaged contents. The City of Atlanta has already been notified of the problem from our client.

If you have insurance, please complete the attached form and return it to me. Please refer this letter to them immediately, requesting they contact our offices. Should you not have insurance, we expect payment from you directly. Please contact me to discuss repayment options.

Please call me with any questions.

Sincerely,

Paul Kasdorf  
Claim Investigator  
(262)797-1868

Enc. Insurance Questionnaire

RCS# 3063  
8/06/01  
5:56 PM

Atlanta City Council

Regular Session

01-R-1200      Payment of \$10,393.57 in settlement of  
Travelers/ Subrogee of Richard P. Clark  
ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 3  
EXCUSED: 0  
ABSENT 0

Y McCarty	Y Dorsey	Y Moore	Y Thomas
NV Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	NV Muller	Y Boazman	NV Pitts

01-R-1200

01-1200  
(Do Not Write Above This Line)

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\$10,393.57 IN SETTLEMENT OF THE  
CLAIM OF TRAVELERS AS  
SUBROGEE OF RICHARD P. CLARK  
AGAINST THE CITY OF ATLANTA**

**APPROVED BY:**

*Rosalind Rubens Newell*  
**ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY**

**ADOPTED BY  
AUG 06 2001**

- ☐ **CONSENT REFER**  
☐ **REGULAR REPORT REFER**  
☐ **ADVERTISE & REFER**  
☐ **1st ADOPT 2nd READ & REFER**  
☐ **PERSONAL PAPER REFER**

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

**First Reading**

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair *C. T. Moore*  
Referred to \_\_\_\_\_

Committee *PS & LA*  
Date *7/31/01*  
Chair *C. T. Moore*  
Action: ☒ Fav, Adv, Hold (see rev. side)  
Other: \_\_\_\_\_  
Members: *Richard P. Clark*  
*James H. Brown*  
*W. W. W.*  
*Chela Henderson*  
Refer To \_\_\_\_\_

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Action: \_\_\_\_\_  
Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
Other: \_\_\_\_\_  
Members \_\_\_\_\_  
Refer To \_\_\_\_\_

**FINAL COUNCIL ACTION**

☐ 2nd ☐ 1st & 2nd ☐ 3rd  
Readings  
☒ Consent ☐ V Vote ☒ RC Vote

**CERTIFIED**

**CERTIFIED**  
**AUG 6 2001**  
ATLANTA CITY COUNCIL PRESIDENT  
*James H. Brown*

**CERTIFIED**  
**AUG 06 2001**  
*Rachel Douglas Johnson*  
MUNICIPAL CLERK

**MAYOR'S ACTION**

**APPROVED**

**AUG 15 2001**

**WITHOUT SIGNATURE  
BY OPERATION OF LAW**